



City of Rochester

Department of Law
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Timothy R. Curtin
Corporation Counsel

April 1, 2019

Hon. Lovely A. Warren
Mayor, City of Rochester
City Hall
30 Church Street
Rochester, NY 14614

Loretta C. Scott
President, Rochester City Council
City Hall
30 Church Street
Rochester, NY 14614

Mayor Warren:

I am informed that the Federal District Court has accepted Council Vice President Adam C. McFadden's guilty plea to a two count felony. As such, NY Public Officers Law Section 30(1) (e) provides that an "office shall be vacant" immediately upon an incumbent's conviction of a felony or a crime involving a violation of his oath of office." Public Officers Law Section 3(1-a) provides that "no person shall be capable of holding a civil office who shall stand convicted of a felony defined in article two hundred or four hundred ninety-six or section 195.20 of the penal law." Please consider Mr. McFadden's Rochester City Council seat to now be vacant without further notice or action.

Section 5-4 of the Rochester City Code provides, in part:

"Vacancies in the office of member of the Council arising otherwise than by expiration of term or by recall shall, within one month, be filled by appointment of a nominee of the members of the Council of the same political affiliation as the person who vacated the office by a majority vote of the remaining members of the Council. If the Council has not filled the vacancy within 30 days from the date the vacancy occurs, then the President of the Council shall fill the vacancy by appointment of a person from the same political party as the person who vacated the office. The person so appointed shall hold office until the first day of January succeeding the first general election held in time to permit the filing of nominating petitions following the vacancy, at which a successor must be elected for the unexpired term."

Please let me know if you have any questions. Thank you.

Very truly yours,

A handwritten signature in purple ink, appearing to read "Timothy R. Curtin".

Timothy R. Curtin

